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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,337	10/09/2001	Andrew J. Sewell	00-424	6197

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PATENT DEPT.  
PEORIA, IL 616296490

EXAMINER
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KLEBE, GERALD B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/973,337	<b>Applicant(s)</b> SEWELL, ANDREW J. 	
	<b>Examiner</b> Gerald B. Klebe	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 15 is/are rejected.
- 7) ☒ Claim(s) 6, 11-14, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

*G B Klebe*  
28 October 2004

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____ |
|---|--|

## **DETAILED ACTION**

### ***Request for Continued Examination / Amendment***

1. The Request for Continued Examination and the amendment filed under 37 CFR 1.111 both filed on 10/05/2004 are each acknowledged. Claim 5 being cancelled and new claims 11-20 being added by the amendment, claims 1-4 and 6-20 are pending in the application, with claims 1 and 8 being independent. An action on the merits follows.

### ***Drawings***

2. The proposed drawing correction filed 10/05/2004 has been approved by the examiner.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### **Timing of Corrections**

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Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

***Claims Rejections - 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 depends from a cancelled claim; a claim may not depend from a cancelled claim.

Appropriate correction is required.

***Claims Rejections - 35 U.S.C. § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1- 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Oda et al. (US 5711095).

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Oda et al. discloses a work machine arrangement for a work machine having an engine, comprising : (re: claim 1)

A work machine body (Fig 1, item 1);

A telescopic loading arm (10) connected to the work machine body, the telescopic arm having an arm longitudinal axis and an end, the telescopic arm adapted to receive a load-carrying attachment (7) at the end;

A hydraulic cylinder (8) operable to elevate the end of the telescopic arm (10) relative to the work machine body (refer col 3, lines 47-52); and,

An engine cooling apparatus (Fig 2, not separately numbered; taken as the unnumbered rectangular item drawn in dashed lines to the right of the engine (item 17) mounted to the work machine body, the engine cooling apparatus having an engine cooling apparatus longitudinal axis oriented substantially parallel to the arm longitudinal axis (refer Fig 2); and,

(re: claim 2) wherein the engine cooling apparatus comprises a radiator (refer col 6, lines 5-8); and,

(re: claim 3) wherein the telescopic arm (10) includes a hollow base portion (the cylinder) sized to receive a telescoping portion (the rod) that is extendable and retractable relative to the base portion; and,

(re: claim 4) wherein the telescopic arm is pivotable relative to the work machine body (refer col 3, lines 47-52); and ,

(re: claim 7) wherein the work machine body includes a rear portion and the engine cooling apparatus is mounted to the rear portion of the work machine body (refer Fig 2; and col 5, line 66 to col 6, line 5).

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***Allowable Subject Matter***

8. Claims 8-10 and 18-20 are allowed.

Claims 6, 11-14, and 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Argument***

9. Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

***Prior Art made of Record***

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Baumann et al. and of Masumoto et al. each teach a work machine having a telescoping loading arm and having features in common with some other features of the inventive concept disclosed in the instant application.

***Conclusion***

11. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 703-308-2560.

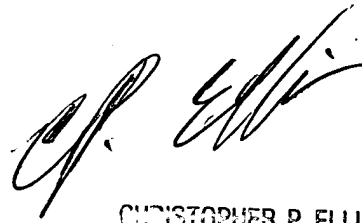
Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*gbklebe*  
gbklebe / Art Unit 3618 / 28 October 2004



CHRISTOPHER P. ELLIS  
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